



[4830-01-P]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-130843-13]

RIN 1545-BL74

Net Investment Income Tax; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to a withdrawal of notice of proposed rulemaking and notice of proposed rulemaking.

SUMMARY: This document contains corrections to a withdrawal of notice of proposed rulemaking and notice of proposed rulemaking (REG-130843-13) that was published in the **Federal Register** on Monday, December 2, 2013, providing guidance on the computation of net investment income.

DATES: Written or electronic comments and requests for a public hearing for the notice of proposed rulemaking published at 78 FR 72451, December 2, 2013 are still being accepted and must be received by March 3, 2014.

FOR FURTHER INFORMATION CONTACT: Adrienne M. Mikolashek at (202) 317-6852 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

The withdrawal of notice of proposed rulemaking and notice of proposed rulemaking (REG-130843-13) that is the subject of these corrections is under section 1411 of the Internal Revenue Code.

Need for Correction

As published, withdrawal of notice of proposed rulemaking and notice of proposed rulemaking (REG-130843-13) contains errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, withdrawal of notice of proposed rulemaking and notice of proposed rulemaking (REG-130843-13) that was the subject of FR Doc. 2013-28409, is corrected as follows:

1. On page 72456, in the preamble, first column, twenty-first line from the top of the page, the language “taken income account in computing net ” is corrected to read “taken into account in computing net”.
2. On page 72456, in the preamble, third column, under the paragraph heading “B. Section 1291 Funds”, first line, the language “The Final 2013 Regulations also” is corrected to read “The 2013 Final Regulations also”.
3. On page 72457, in the preamble, first column, sixth line of the second full paragraph, the language “chapter 1 under section 953(d) and” is corrected to read “chapter 1 under sections 953(d) and”.
4. On page 72457, in the preamble, second column, tenth line of the first full paragraph, the language “calculation rules for CFC QEFs, and” is corrected to read “calculation rules for CFCs, QEFs, and”.
5. On page 72460, in the preamble, first column, second line from the top of the page, the language “2T(e)(3)(ii)(B)(1)(i) requires the taxpayer” is corrected to read “2T(e)(3)(ii)(B)(1)(i) requires the taxpayer”.

6. On page 72460, in the preamble, first column, sixth line of the second full paragraph, the language “469 do not apply for purposes of these” is corrected to read “section 469 do not apply for purposes of these”.

7. On page 72461, in the preamble, second column, twelfth line from the top of the page, the language “through is appropriate” is corrected to read “is appropriate”.

8. On page 72461, in the preamble, third column, under the paragraph heading “G. Information Reporting”, fifth line, the language “commentators expressed concern that” is corrected to read “commentators expressed concern that the”.

§ 1.1411-4 [Corrected]

9. On Page 72470, first column, the paragraph heading for (g)(11)(ii)(B)Example1. should read “Example 1. Distributive share for unrealized receivables.”

10. On page 72470, first column, the first and second sentences of paragraph (g)(11)(ii)(B)Example1.(i), should read “A retires from PRS, a business entity classified as a partnership for Federal Income tax purposes for which capital is not a material income producing factor. A is entitled, pursuant to the partnership agreement, to receive 10% of PRS’s net income for 60 months commencing immediately following A’s retirement in exchange for A’s fair market value share of PRS’s unrealized receivables.”.

11. On page 72470, first column, the fifth sentence of paragraph (g)(11)(ii)(B)Example1.(i), should read “Prior to A’s retirement, A materially participated as a general partner in PRS’s trade or business within the meaning of §1.469-5T.”.

§ 1.1411-7 [Corrected]

12. On page 72473, second column, the first sentence of paragraph (c)(4), should read “ The amount of net gain or loss from the transferor’s Section 1411(c)(4) Disposition that is includable in § 1.1411-4(a)(1)(iii) is determined by multiplying the transferor’s chapter 1 gain or loss on the disposition by a fraction, the numerator of

which is the sum of income, gain, loss, and deduction items (with any separately stated loss and deduction items netted as negative numbers) of a type that are taken into account in the calculation of net investment income (as defined in §1.1411-1(d)) that are allocated to the transferor during the Section 1411 Holding Period and the denominator of which is the sum of all items of income, gain, loss, and deduction allocated to the transferor during the Section 1411 Holding Period (with any separately stated loss and deduction items netted as negative numbers).”.

13. On page 72473, third column, the second and the third sentence of paragraph (c)(5)Example 1.(ii), should read “ The total amount of A’s allocated net items during the Section 1411 Holding Period equals \$1,830,000 (\$1,800,000 income from activity X, \$10,000 loss from activity Y, and \$20,000 income from marketable securities). Thus, less than 5% ($\$30,000/\$1,830,000$) of A’s allocations during the Section 1411 Holding Period are of a type that are taken into account in the computation of net investment income, and because A’s chapter 1 gain recognized of \$900,000 is less than \$5,000,000, A qualifies under §1.1411-7(c)(2)(ii) to use the optional simplified method.”.

14. On page 72474, first column, the second sentence of paragraph (c)(5)Example 2., should read “Under paragraph (c)(4) of this section, A’s percentage of Section 1411 Property is determined by dividing A’s allocable share of income and loss of a type that are taken into account in the calculation of a net investment income (as defined in §1.1411-1(d)) that are allocated to the transferor by the Passthrough Entity during the Section 1411 Holding Period is \$10,000 ($\$10,000 \text{ loss from Y} + \$20,000 \text{ income from marketable securities}$) by \$1,810,000, which is the sum of A’s share of income and loss from all of P’s activates ($\$1,800,000 + (\$10,000) + 20,000$).”

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